

Non-Public School Consultation Under ESSA

Title Con 2019

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April 23, 2019



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ESSA Background

- ESSA is the reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA);
- ESEA is the largest federal program providing benefits to elementary and secondary school students;
- ESEA was part of President Johnson's War on Poverty;
- The previous reauthorization of ESEA was the No Child Left Behind Act (NCLB);
- Congress has crafted a new version of ESEA and that is ESSA – the Every Student Succeeds Act.



Federal Programs Requiring Equitable Services Under ESSA

Program governed under Title I:

- *Title I, Part A (Improving the Academic Achievement of the Disadvantaged)* **\$15.76 B / \$233.38 M**

Programs covered under the Uniform Provisions of Title VIII, Part F (formerly Title IX):

- *Title I, Part C (Education of Migratory Children)* **\$374.0 M / \$4.2 M**
- *Title II, Part A (Supporting Effective Instruction)* **\$2.06 B / \$35.89 M**
- *Title III, Part A (English Learner Programs)* **\$737.4 M / \$8.44 M**
- *Title IV, Part A (Student Support and Academic Enrichment)* **\$1.1B / \$18.34 M**
- *Title IV, Part B (21st Century Community Learning Centers Program)* **\$1.2B / \$20.06 M**



Newly Released Guidance

- New Title I, Part A Non-Regulatory Guidance: *“Providing Equitable Services to Eligible Private School Children, Teachers, and Families”* issued for public comment on March 11, 2019.
- Comments were due by April 9th. Comments were taken into consideration and they may or may not make the suggested changes to the guidance:
 - Guidance is available at <https://www2.ed.gov/policy/elsec/leg/essa/drafteseatitleiequitable-services.pdf>
- Supersedes all NCLB guidance and the ESSA guidance released in November 2016;
- Most notable change is that an LEA may enter into a contract with a religious organization to provide equitable services on the same basis as any other entity; however, contractor must be independent of the non-public school and provide secular, neutral and nonideological services.
- Title VIII guidance governing all other equitable service programs will follow soon.



Consultation Under ESSA

What is Consultation?

- Consultation is the process through which the public school district makes decisions with the input of non-public school officials about the equitable services that will be provided to the eligible non-public school.
- Consultation applies to all programs under ESSA that provide for equitable participation to non-public school students; Title I, II, III, IV.
- The goal of consultation is to reach agreement on a program of services that provides equitable participation to meet the needs of eligible non-public school students.



What is Equitable Participation?

Elements of a program that provides equitable participation:

- Assesses, addresses, and evaluates the needs and progress of public and non-public school students and educational personnel in the same manner;
- Provides approximately the same amount of services to students and educational personnel with similar needs;
- Spends an equal amount of funds to service similar public and non-public school students and educational personnel; and
- Provides both groups of students and educational personnel equal opportunities to participate in program activities.



Key Elements of Consultation

Key Elements of Consultation:

- Be timely and meaningful;
- Ensure equitable participation;
- Reach agreement;
- Occurs before decisions are made;
- Consultation timeline must ensure on-time start to program services and thorough consideration of all topics.



Panel Discussion

What do you consider key elements of consultation?



LEA Responsibilities for Consultation

The LEA is required to:

- Send intent to participate forms: sent within and outside of LEA boundaries; reasonable period of time to respond; consult with non-public schools about deadlines for response;
- Early discussion about next school year's program to ensure a timely start for the upcoming school year;
- Consultation should occur during design and development of programs;
- Consultation must occur before LEA makes any decisions;
- Must be ongoing throughout the school year;
- Allowable to have a single point of contact that informs the LEA;
- Cover all consultation topics that are included in the law and found on the "Affirmation of Consultation with the Non-Public School Official" form.



Expectations for Non-Public Officials

Whoever the non-public school designates to work with the LEA is expected to:

- Submit notice of intent to participate to the LEA;
- Provide lists of addresses and grade levels of students from low-income families (Title I)
- Participate in consultation;
- Come prepared to suggest ideas, program designs and modifications based students' needs;
- Have a goal of reaching agreement;
- Choose a single point of contact that informs the LEA.
- Identify eligible students who reside in an LEA different from the one in which the non-public school is located and alert the relevant LEA of the students' eligibility.



Panel Discussion

What do you do to prepare for consultation?

Consultation Cautions

- Essential requirement for all Title programs, not just Title I;
- One and done is not adequate consultation;
- A unilateral offer of service by an LEA with no opportunity for discussion is not adequate consultation;
- Application of a blanket rule is not adequate consultation;
- Keep documentation of consultation on file;
- Only after discussing key issues relating to the provision of equitable services should an LEA make final decisions;



Safeguards to Promote Success

There are safeguards in the law that will help promote successful consultation –

- The goal of consultation is to reach agreement;
- Written affirmations;
- Ombudsman;
- State monitoring;
- Complaint process and state services.



The public school district makes all final decisions and controls the funds for equitable services.



Documentation of Consultation

LEA Affirmation of Consultation with the Non-Public School Official

- The LEA must maintain in its records, and provide to the SEA, a written affirmation signed by the officials of each non-public school that indicates timely and meaningful consultation has occurred for all programs under Title I and Title VIII.
- The affirmation must provide the option for non-public school officials to indicate their belief that timely and meaningful consultation did not occur or that the program design is not equitable with respect to eligible non-public school children.
 - <https://www.doe.in.gov/grants/ombudsman>
- Under Title I and Title VIII, if an LEA disagrees with the view of the non-public school officials with respect to any issue discussed in consultation, the LEA must provide in writing to such non-public school official the reason why the LEA disagrees.



Complaint Process

Letter of Concern to the LEA: IDOE encourages the LEA to discuss disagreements with the non-public school official through meaningful consultation and provide technical assistance, if needed. The non-public school official may submit a “Letter of Concern to the LEA” outlining the issue.

- A template for the “Letter of Concern to the LEA” can be found on the ombudsman webpage:
<https://www.doe.in.gov/grants/ombudsman>

Letter of Complaint to the SEA: If an agreement can’t be met between the non-public school official and the LEA during technical assistance and informal mediation with the Federal Grants Specialist and the ombudsman, a formal complaint can be filed with the ombudsman.

- A template for the “Letter of Complaint” can be found on the ombudsman webpage:
<https://www.doe.in.gov/grants/ombudsman>
- The timeframe that an SEA has for responding to a written formal complaint from parents, teachers, or other individuals concerning violations is 45 days.

Section 8503



State Services

An SEA must provide equitable services through contracts with public or private agencies, organizations or institutions, if appropriate non-public school officials have –

- Requested that the SEA provide such services through a third party contractor; and
- Can demonstrate that the LEA has substantially failed or is unwilling to provide equitable services to the non-public school students.
- State Services process, as well as the complaint process, is explained in the Complaint, Resolution and Appeal Process document found on the ombudsman webpage:
<https://www.doe.in.gov/grants/ombudsman>

Sections 1117(b)(6)(C) and 8501(b)(6)(C)



Best Practices for Consultation

- Open and on-going communication;
- Sufficient time to plan;
- Be transparent about funding;
- Get services up and running as soon as possible – discuss date for starting services;
- Ask for help in understanding ESSA law, if needed;
- Focus on the needs of the non-public students;
- Prior to the meeting consider what to bring;
- Discuss the LEA's internal timeline;
- Provide materials in advance that will assist in preparing for consultation.



Panel Discussion

What is a best practice that you have considered important in promoting successful consultation?



Resources

- Non-Regulatory Guidance – Title I Private Schools
<https://www2.ed.gov/policy/elsec/leg/essa/drafteseatitleiequitableservices.pdf>
- Non-Regulatory Guidance – Title II, Part A
<https://www.doe.in.gov/sites/default/files/titlei/essa-titleii-parta-guidance.pdf>
- Non-Regulatory Guidance: Fiscal Changes and Equitable Services Requirements Under ESSA
<https://www2.ed.gov/policy/elsec/leg/essa/essaguidance160477.pdf>
- Federal Programs: Fiscal Updates
<http://www.doe.in.gov/titlei/federal-programs-fiscal-updates>
- IDOE Non-Public School Ombudsman webpage
<https://www.doe.in.gov/grants/ombudsman>
- IDOE Office of Title Grants and Support website
<https://www.doe.in.gov/grants>



Questions



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